

### **REMARKS**

In response to the Office Action mailed January 8, 2008, Applicant respectfully requests reconsideration. Claims 54, 56, 60, 62, 64, 66, 76, 133 and 137 were previously pending in this application. Applicant notes with appreciation the allowability of claims 54, 60, 62, 64 and 66. By this amendment, claim 137 has been canceled without prejudice or disclaimer. Claims 56, 76 and 133 have been amended. Claims 56 and 133 have been amended to recite fragment sizes of at least 460 and 1000 nucleotides respectively. Support for this amendment can be found in the specification at least on page 7, lines 17-21 and page 12, lines 19-23. Claim 76 has been amended to incorporate the features of claim 137.

As a result, claims 54, 56, 60, 62, 64, 66, 76 and 133 are pending for examination with claims 54, 56 and 76 being independent claims.

No new matter has been added.

### **Claim Objections**

Claim 137 was objected to as being dependent upon a rejected base claim. Applicant has canceled claim 137, rendering rejection of this claim moot.

### **Rejections Under 35 U.S.C. § 112, First Paragraph**

The Examiner rejected claim 76 under 35 U.S.C. § 112, first paragraph, as lacking enablement. The Examiner asserts that undue experimentation would be required to determine which primer pairs encompassed by claim 76 would be functional for amplification.

Without conceding the correctness of the rejection and in the interest of expediting prosecution, Applicant has amended claim 76 to incorporate the features of claim 137: "wherein the pair of isolated nucleic acid molecules consists of SEQ ID NO:27 and SEQ ID NO:28."

Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 76 under 35 USC 112, first paragraph.

**Rejections Under 35 U.S.C. § 102**

**A.** The Examiner rejected claims 56 and 133 under 35 U.S.C. §102(b) as anticipated by Jacobs et al. (WO 98/57976).

The Examiner asserts that Jacobs et al. discloses a fragment (nucleotides 224-679 of SEQ ID NO:11; or polynucleotides encoding residues 62-212 of SEQ ID NO:12) that corresponds to a portion of the instant SEQ ID NO:23. Applicant has amended claims 56 and 133 to recite fragment sizes of at least 460 and 1000 nucleotides respectively. The sequence fragment disclosed by Jacobs is 456 nucleotides and thus does not anticipate the claims as amended.

Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 56 and 133 under 35 U.S.C. §102(b).

**B.** The Examiner rejected claims 56 and 133 under 35 U.S.C. §102(b) as anticipated by Dumas-Milne-Edwards et al. (WO 99/06549).

The Examiner asserts that Dumas-Milne-Edwards et al. discloses a fragment (SEQ ID NO:60) that corresponds to a portion of the instant SEQ ID NO:23. Applicant notes that the sequence disclosed by Dumas-Milne-Edwards et al. as SEQ ID NO:60 does not align perfectly with the instant SEQ ID NO:23. There are three nucleotides which misalign, including two which alter the reading frame. Thus Dumas-Milne-Edwards et al. does not anticipate the claimed invention. However, without conceding the correctness of the rejection and in the interest of expediting prosecution, Applicant has amended claims 56 and 133 to recite fragment sizes of at least 460 and 1000 nucleotides respectively. The sequence fragment disclosed by Dumas-Milne-Edwards et al. is 128 nucleotides and thus does not anticipate the claims as amended.

Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 56 and 133 under 35 U.S.C. §102(b).

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: May 8, 2008

Respectfully submitted,

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